THE HON'BLE SRI JUSTICE D.S.R.VARMA
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT PETITION No.12769 of 2007

DATED : 03-08-2007

Between :

Chowta Suseela

…Petitioner.

AND

Government of Andhra Pradesh,
Rep.by its Superintendent of Police,
Guntur District, Guntur and another.

…Respondents.

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ORAL ORDER : (per the Hon'ble Sri Justice D.Appa Rao)

Heard learned counsel for the petitioner, learned Assistant Government Pleader, representing the learned Advocate General and the learned Central Government Standing Counsel.

2. This writ petition of Habeas Corpus is filed by the petitioner for production of his son viz., Mohammed Faique Aziz.

3. It is alleged in the writ petition that his son Mohammed Faique Aziz has been in Dubai since February, 2006, working under one Arshad. However, for the last two weeks, he was not contacting him. He came across a news item in Siasat Urdu News Daily that his son has been in police custody, and was not produced in any Court of law. Therefore, he was suspecting danger to the life of his son.

4. The Director General of Police, Andhra Pradesh, Hyderabad, filed counter affidavit, *inter alia,* stating that the detenu was not taken into custody by any of the State Police of Andhra Pradesh. The alleged detenu was involved in various crimes viz., (1) Accused No.9 in Crime No.234 of 2005 under Sections 121, 121-A, 124-A, 120 of Indian Penal Code (IPC) of Gopalapuram Police Station, North Zone, Secunderabad;
(2) Accused No.3 in Crime No.198 of 2007 under Sections 120-B, 125, 126 of IPC of Gopalapuram Police Station, North Zone, Secunderabad; (3) Accused No.4 in Crime No.125 of 2006 under Sections 153-A, 120-B read with Section 34 IPC. Non-bailable Warrants issued by the XIV Additional Chief Metropolitan Magistrate, Hyderabad, could not be executed. On that Proclamation Notices under Sections 82 and 83 of the Code of Criminal Procedure (Cr.P.C.) were issued. The police, in fact, were searching for the alleged detenu in regard to the above said offences. Therefore, he denied that the alleged detenu was taken into illegal custody by the police.

5. Admittedly, Non-bailable Warrants have been pending against the alleged detenu in various crimes, registered under various offences, as noted above. There is no basis for the petitioner to state that the accused has been in custody of the police, except for a news item, which could not be confirmed by the petitioner. Obviously, as the

alleged detenu has been involved in several cases, the petitioner intends to pre-empt the efforts of the police to arrest him. Had he been apprehended, and moreso, when Non-bailable Warrants and the Proclamation Notices are pending, the police would not have detained him. It is not known how the police could nab him, when he is said to be in Dubai.

6. The apprehension of the petitioner, in this regard, is misconceived. There are no merits in the writ petition and the same is liable to be dismissed.

7. Accordingly, the writ petition is dismissed, at the stage of admission. There shall be no order as to costs.

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JUSTICE D.S.R.VARMA

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JUSTICE D.APPA RAO

03-08-2007
Msr.

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